



**Our Reference: DEA&DP Circular 0004/2020**

**TO: ALL MUNICIPAL MANAGERS, MUNICIPAL PLANNING HEADS AND PLANNING CONSULTANTS**

**PRACTICE NOTES ON LAND USE MANAGEMENT DURING THE COVID-19 NATION-WIDE LOCKDOWN PERIOD**

The declaration of a National State of Disaster on 15 March 2020, as well as the Nation-wide 21-day lockdown period, from 27 March 2020 to 16 April 2020, has reference.

**1. INTRODUCTION**

- 1.1 Whilst the nation is under lockdown to prevent the spread of the COVID-19 disease, we have a responsibility to also do what we can to support our economy. We encourage everybody involved in the planning and development sector to consider ways to continue with our work where it is at all possible.
- 1.2 There are undoubtedly going to be processes that cannot continue during this period, specifically fair administrative procedures and public participation (e.g. advertising, public notices and appeal processes). These processes will have to be put on hold during this period irrespective of compulsory regulatory prescripts and may have to be re-run once the lockdown has been lifted.
- 1.3 Due to the Constitutional division of the spatial planning and land use management function and the fact that the majority of land use management services are regulated by municipal by-laws, the Western Cape Government does not have the mandate or authority to exempt any party from the regulatory prescripts in the by-laws of the individual municipalities.
- 1.4 In addition to the above, various procedures in the municipal by-laws do not allow for condonation of non-compliance with time frames as prescribed. It is therefore essential that each municipality interrogate the applications currently in their systems and decide how best to proceed with the applications given the challenges posed with public participation and fair administrative procedures.
- 1.5 The Department's (DEA&DP's) role under these circumstances is to support the municipalities with best practice. Whilst no precedent nor "best practice" exists for this current situation, it is important that municipalities share their experiences with us and respond to initial suggestions. In this way DEA&DP can disseminate and share information to ensure that we apply uniform solutions across the Western Cape.

- 1.6 DEA&DP will be liaising with our National colleagues and also stay abreast of developments in other Provinces and will distribute and share information as we receive it.
- 1.7 The following practice notes are initial suggestions from the team here at DEA&DP, that may have to be developed further as this lockdown period continues.

## **2 MUNICIPAL LAND USE MANAGEMENT**

### **2.1 Applications**

- (a) Applicants are encouraged to finalise applications and submit same for processing, where possible, particularly in municipalities with electronic submission services.
- (b) Municipalities should accept and process applications for completeness, liaise with applicants should outstanding information be required and ensure that applications are ready for public participation. In this regard municipalities should be aware and keep track of backlogs that may build up during this period and ready itself to deal with these backlogs once the lockdown has been lifted.
- (c) We strongly recommend, however, that municipalities do not proceed to the advertising stage during this period, as it would be difficult to ensure that fair administrative procedures are achieved. Depending on the duration of the national lockdown, it is best that applications are only advertised once the lockdown has been lifted.

### **2.2 Decisions**

- (a) Whilst Municipal Planning Tribunals are not able to have meetings during the lockdown period, municipal planning officials are encouraged to still prepare professional reports for the MPT's consideration, where relevant processes have been completed and information is available to finalise the reports. It is acknowledged that this is only possible where systems, processes and equipment allows municipalities to proceed with the assessment and consideration of land use planning applications. This will ensure that MPT's will be in a position to consider and decide on applications as soon as the lockdown has been lifted.
- (b) Applications delegated to authorised officials, should be finalised and decided on as far as possible. We recommend, however, that the decisions not be communicated during the lockdown period, to avoid the appeal procedures being triggered. We strongly recommend that any decisions taken during the lockdown period should only be communicated to applicants and any person(s) whose rights are affected once the lockdown has been lifted.
- (c) Decisions by the Appeal Authority could be finalised and communicated to applicants and any person whose rights are affected, as no further activity in terms of the planning law is regulated. Applications for the judicial review of appeal decisions, as the only further action possible, has a 180-day time frame and should not be impacted by the lockdown.

## **2.3 Applications in Process**

- (a) Municipalities will have to consider how to deal with applications that were in the system immediately prior to the coming into effect of the national lockdown, on a case by case basis. We advise that the following principle should be taken into consideration: Processes such as notices inviting comment and appeals, and which periods closed during the lockdown period, should be re-run after the lockdown. Fair administrative processes would not otherwise be possible under these circumstances.

## **3. PROVINCIAL PLANNING SERVICES**

### **3.1 Land Development Applications**

The same principles outlined above for municipal land management will apply to applications submitted in terms of Section 53 of the Western Cape Land Use Planning Act, 2014 (Act No 3 of 2014) (LUPA) to DEA&DP.

### **3.2 Provincial Comment on Applications and other services**

DEA&DP will continue to provide comment on applications in terms of Section 45 of LUPA, municipal by-laws, human settlement projects, environmental impact assessments and will issue certificates in terms of the Subdivision of Agricultural Land Act, 1970 (Act No 70 of 1970), etc. provided the relevant information is forwarded electronically (e.g. by means of e-mail or web-links, etc.), as we are working from home during the lockdown period.

## **4. ZONING SCHEMES**

- 4.1 We acknowledge that the national lockdown may have an impact on certain municipalities' ability to comply and adopt zoning schemes by June 2020 as stipulated in SPLUMA.
- 4.2 We encourage municipalities to continue with the process as far as the legislation will allow and submit your drafts to our Department for assistance and comment once this stage is reached.
- 4.3 The Department will also keep both SALGA and our National colleagues at the Department of Agriculture, Land Reform and Rural Development abreast of the situation and our interim arrangements in the Western Cape and also request that a national exemption be issued by the National Minister from the provisions of SPLUMA.

We are looking forward to your reply. For further details please engage with our Director: Development Management, Kobus Munro, on 083 7011890 or [Kobus.Munro@westerncape.gov.za](mailto:Kobus.Munro@westerncape.gov.za).



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